

1 AN ACT to amend the Agricultural Areas Conservation and  
2 Protection Act.

3 Be it enacted by the People of the State of Illinois,  
4 represented in the General Assembly:

5 Section 5. The Agricultural Areas Conservation and  
6 Protection Act is amended by changing Sections 4, 5, 6, 7, 8,  
7 9, 10, 11, 12, 13, 16, 17, 18, and 20.2 and adding Sections  
8 11.5 and 20.4 as follows:

9 (505 ILCS 5/4) (from Ch. 5, par. 1004)

10 Sec. 4. Agricultural areas committee.

11 (a) A county board shall may establish a county  
12 agricultural areas committee that which shall consist of (i)  
13 4 four active farmers, no more than 2 two of whom shall be of  
14 the same major political party, and (ii) a member of the  
15 county board.

16 (1) The committee shall select one of its members  
17 to serve as chairperson ~~chairman-of-the-county-committee~~.

18 (2) The ~~Sueh~~--a committee shall be established  
19 whenever a petition is received by the county board for  
20 the creation of an agricultural area under ~~pursuant--to~~  
21 Section 6. ~~A,~~ ~~provided-that-no-sueh~~ county committee may  
22 not be established if one has already been established  
23 for the ~~sueh~~ county.

24 (3) Members of the ~~sueh~~ county committee shall be  
25 appointed by and shall serve at the pleasure of the  
26 county appointing authority.

27 (4) The members shall serve without salary, but the  
28 county board may entitle each ~~sueh~~ member to  
29 reimbursement for his actual necessary expenses incurred  
30 in the performance of his official duties.

31 (b) The ~~Sueh~~ committee shall advise the county board in

1 relation to the proposed establishment, modification, and  
 2 termination of agricultural areas. The county committee shall  
 3 render expert advice relating to the desirability of such  
 4 action, including advice as to the nature of farming and farm  
 5 resources within the proposed area and the relation of  
 6 farming in the such area to the county as a whole.

7 (Source: P.A. 81-1173.)

8 (505 ILCS 5/5) (from Ch. 5, par. 1005)

9 Sec. 5. Agricultural areas; creation. Any owner or  
 10 owners of land may submit a petition ~~proposal~~ to the county  
 11 board for the creation of an agricultural area within the  
 12 such county according to the following provisions:-

13 (1) An agricultural area, at the creation of the  
 14 any-such area, shall ~~not~~ be at least ~~less-than~~ 350 acres.

15 (2) The petition ~~Such--proposal~~ shall include a  
 16 description of the proposed area, including its the  
 17 boundaries thereof.

18 (3) The ~~Such~~ territory shall be as compact and  
 19 nearly contiguous as feasible.

20 (4) An area created under this Act shall be  
 21 established for a period of 10 ~~ten~~ years.

22 (5) No land shall be included in an agricultural  
 23 area without the consent of the owner.

24 (6) No land within an agricultural area shall be  
 25 used for other than agricultural production as described  
 26 in Sections 3.01 and 3.02 of this Act.

27 (7) Agreements for the extraction of mineral  
 28 resources duly agreed upon before ~~prior-to~~ the creation  
 29 of an agricultural area shall be exempted from the use  
 30 provisions of this Section. In addition, the extraction  
 31 of mineral resources conducted under ~~pursuant--to~~ the  
 32 Surface Coal Mining Land Conservation and Reclamation Act  
 33 shall be considered temporary land use and shall be

1           exempted from the use provisions of this Section.

2           (Source: P.A. 84-456.)

3           (505 ILCS 5/6) (from Ch. 5, par. 1006)

4           Sec. 6. Duties of the county board.

5           (a) Within 10 days after receiving ~~Upon the receipt of~~  
6           such a petition to create an agricultural area proposal, the  
7           county board shall provide notice of the petition (i) such  
8           ~~proposal~~ by publishing a notice in a newspaper having general  
9           circulation within the proposed area or, if no such newspaper  
10          has a general circulation within the proposed area then in a  
11          newspaper having general circulation within the county and  
12          (ii) by posting the such notice in 5 ~~five~~ conspicuous places  
13          within the proposed area. A copy of the such notice shall be  
14          sent to the county or regional planning commission for review  
15          or written comment to be made to the county board within 30  
16          days. ~~Such comment shall be made to the county board.~~

17          The notice required to be published or posted under this  
18          Section shall contain the following information:-

19                (1) 1- A statement that a petition proposal for an  
20                agricultural area has been filed with the county board  
21                under ~~pursuant to~~ this Act.;

22                (2) 2- A statement that the petition proposal will  
23                be on file open to public inspection at the county  
24                clerk's office.;

25                (3) 3- A statement that any landowner, owning land  
26                adjacent to or partially encompassed by the proposed  
27                area, may propose a modification of the area to include  
28                or exclude such lands, within 30 days of the date of  
29                publication of the newspaper notice. The proposed  
30                modification ~~Such application~~ shall be made on forms  
31                prescribed by the county board.;

32                (4) 4- A statement that any proposed modification  
33                must be filed with the county clerk and the clerk of the

1 county board within 30 days after the publication of the  
2 newspaper such notice.;

3 (5) 5. A statement that at the termination of the  
4 30-day 30-day period, the petition ~~proposal~~ and proposed  
5 modifications will be submitted to the county committee,  
6 and that a public hearing will be held on the petition  
7 ~~proposal~~, proposed modifications, and recommendations of  
8 the county committee.

9 (b) The county board shall receive any petitions  
10 ~~proposals~~ for modifications of the petition that such  
11 ~~proposal--which~~ may be submitted by the landowners within 30  
12 days after the publication of the such notice.

13 (c) The county board shall simultaneously, upon the  
14 termination of the 30-day such--30--day period, refer the  
15 petition such-~~proposal~~ and proposed modifications to the  
16 county committee, which shall, within 45 days, report to the  
17 county board its recommendations concerning the petition  
18 ~~proposal~~ and proposed modifications.

19 (Source: P.A. 81-1173.)

20 (505 ILCS 5/7) (from Ch. 5, par. 1007)

21 Sec. 7. Public hearing required.

22 (a) The Agricultural Areas Committee of the county board  
23 shall hold a public hearing on any petition ~~proposal~~ for the  
24 creation of an agricultural area. The Such hearing shall be  
25 held at a place within the proposed area or a place readily  
26 accessible to the proposed area.

27 (b) Notice of the hearing shall contain (i) a statement  
28 of the time, date, and place of the public hearing and (ii) a  
29 description of the proposed area and any proposed additions.  
30 The Such notice shall in addition contain a statement that  
31 the public hearing will be held concerning (i) the original  
32 petition ~~proposal~~, (ii) any written modifications amendments  
33 proposed during the 30 day review period, and (iii) any

1 recommendations proposed by the county committee or the  
 2 planning commissions. The notice shall (i) be published in a  
 3 newspaper having a general circulation within the proposed  
 4 area or if no newspaper has general circulation within the  
 5 proposed area, then in a newspaper having general circulation  
 6 within the county, and (ii) shall be given in writing to the  
 7 persons owning land within such a proposed area and adjacent  
 8 to the proposed area.

9 (Source: P.A. 91-357, eff. 7-29-99.)

10 (505 ILCS 5/8) (from Ch. 5, par. 1008)

11 Sec. 8. Factors for Consideration--in formation of  
 12 agricultural areas.

13 (a) County boards, county committees, and planning  
 14 commissions shall grant a preference to the recommendations  
 15 of the landowners within the proposed agricultural area. The  
 16 following factors should also be considered by county boards,  
 17 county committees, or planning commissions, with respect to  
 18 the formation of any agricultural area:

19 (1) 1- The viability of active farming within the  
 20 proposed area and in areas adjacent to the proposed area.  
 21 thereto;

22 (2) 2- The presence of any viable farmlands within  
 23 the proposed area and within land adjacent to the  
 24 proposed area thereto that are not now in active  
 25 farming.;

26 (3) 3- The nature and extent of land uses other  
 27 than active farming within the proposed area and land  
 28 adjacent to the proposed area. thereto;

29 (4) 4- County developmental patterns, plans, and  
 30 needs.;

31 (5) 5- The existence of a conservation plan  
 32 approved by the local soil and water conservation  
 33 district.;

1           (6) The existence of public utilities within and  
2           adjacent to the proposed area.

3           (7) 6. Any other matter that which may be relevant.

4           (b) In judging viability, any relevant agricultural  
5 information shall be considered, including:

6           (1) Soil.

7           (2) Climate.

8           (3) Topography.

9           (4) Other natural factors.

10          (5) Markets for farm products.

11          (6) The extent and nature of farm improvements.

12          (7) The present status of farming.

13          (8) Anticipated trends in agricultural economic  
14          conditions and technology--and-sueh

15          (9) Other factors as may be relevant.

16          (Source: P.A. 84-456.)

17          (505 ILCS 5/9) (from Ch. 5, par. 1009)

18          Sec. 9. Municipal notice and objections.

19          (a) If the proposed agricultural area includes real  
20          estate within a 1 and one-half 1/2 mile radius from the  
21          corporate limits of any municipality, the county board shall  
22          notify the municipal authorities of the sueh affected  
23          municipality of this proposed area.

24          (b) The Sueh municipal authorities may object to the  
25          petition ~~propesal~~ if the sueh objection is presented to the  
26          county board within 30 days after of the receipt of the  
27          petition ~~propesal~~ by the municipal authorities.

28          Upon receipt of the sueh objection by the county board,  
29 the proposed area shall be modified to exclude the real  
30 estate within the 1 and one-half 1/2 mile radius of the  
31 corporate limits of the sueh municipality, unless the  
32 property in question is approved for inclusion in the  
33 agricultural area by a favorable vote of three-fourths of all

1 members of the county board. In counties where the county  
 2 board consists of 3 members, only a two-thirds vote is  
 3 required. If no objection is received within the specified  
 4 time period, the affected real estate shall be included in  
 5 the agricultural area.

6 (Source: P.A. 81-1173.)

7 (505 ILCS 5/10) (from Ch. 5, par. 1010)

8 Sec. 10. Adoption of petition plan by county board. The  
 9 ~~county--board,~~ After receiving the reports of the county  
 10 committee and other comments, and after the such public  
 11 hearing, the county board may adopt as-a-plan the petition  
 12 ~~proposal~~ or any modification of the petition ~~proposal~~ it  
 13 deems appropriate, including the--inclusion, to the extent  
 14 feasible, of adjacent viable farmlands, and may exclude the  
 15 ~~exclusion,~~ to the extent feasible, of non-viable farmland and  
 16 non-farm land. The county board shall act to adopt or reject  
 17 the petition ~~proposal,~~ or any modification of it not later  
 18 than 45 days from the date that the county committee's  
 19 recommendation on the petition ~~proposal~~ was submitted to it.  
 20 The county board shall notify the Department of Agriculture  
 21 of the adoption or rejection of the petition ~~proposal~~ and  
 22 shall provide the Department with a description of the  
 23 agricultural area within 45 days of taking the such action.

24 (Source: P.A. 84-456.)

25 (505 ILCS 5/11) (from Ch. 5, par. 1011)

26 Sec. 11. Filing Requirement--that description of area  
 27 ~~Agricultural--Areas--be-filed~~ with county clerk and recorder.  
 28 Upon the creation or alteration of an agricultural area, the  
 29 county board must file the description and the accompanying  
 30 board resolution or ordinance: thereof shall be filed by--the  
 31 ~~county-board~~

32 (1) With the county clerk.

1           ~~(2) Such description shall also be placed~~ On record  
 2           in the office of the recorder.  
 3           (Source: P.A. 84-456.)

4           (505 ILCS 5/11.5 new)

5           Sec. 11.5. Stewardship agreements. The Department of  
 6           Agriculture may enter into agreements with any federal or  
 7           State agency, other entity, or with any landowner within an  
 8           agricultural area or proposed agricultural area as may be  
 9           necessary to furnish surveys, engineering, and assistance for  
 10          the formation, expansion, maintenance, or renewal of  
 11          agricultural conservation practices. The Department of  
 12          Agriculture shall develop, by rule, an incentive program for  
 13          land stewardship that pays up to 75% of the costs of these  
 14          conservation practices for land that is designated or  
 15          proposed to be designated as an agricultural area.

16          (505 ILCS 5/12) (from Ch. 5, par. 1012)

17          Sec. 12. Petition for Withdrawal. Any person owning land  
 18          within an agricultural area may submit a petition to the  
 19          county board requesting the withdrawal of land from the  
 20          agricultural area located within that county. Such petition  
 21          must contain:

- 22           1. A statement indicating the proposed alternative use
- 23           of the land.
- 24           2. An explanation of the necessity for changing the
- 25           current use.
- 26           3. An explanation why land outside the agricultural area
- 27           would not be suitable for proposed use.
- 28           4. A legal description, map, and acreage of the land
- 29           proposed for withdrawal.

30          (Source: P.A. 81-1173.)

31          (505 ILCS 5/13) (from Ch. 5, par. 1013)

1           Sec. 13. Procedures for Consideration of Petition for  
2    Withdrawal.

3           1. Within 5 days after the receipt of a petition for  
4    withdrawal of land from an agricultural area, the county  
5    board shall provide notice of such petition by certified mail  
6    to all record owners of property in the agricultural area and  
7    by publishing a notice in a newspaper having general  
8    circulation in the immediate area of the affected land or, if  
9    no such newspaper has a general circulation within such area,  
10   then in a newspaper having general circulation within the  
11   county, and by posting such notice in 5 conspicuous places  
12   within the immediate area of the affected land. Such notice  
13   shall contain the following information:

14           (a) a statement that a petition for withdrawal of  
15    land from an agricultural area has been filed with the  
16    county board pursuant to this Act;

17           (b) a statement that the petition will be on file  
18    open to public inspection at the county clerk's office;

19           (c) a brief, narrative description of the location  
20    of the affected land;

21           (d) a statement of the proposed non-agricultural  
22    use of the land;

23           (e) a statement that the petition will be referred  
24    to the county committee and to the regional and county  
25    planning commissions, if any, for review and comment;

26           (f) a statement that a public hearing will be held  
27    within 60 days on the petition and on the recommendations  
28    of the county committee and of the regional and county  
29    planning commissions, if any, at a time and place to be  
30    announced.

31           2. Within 5 days after the receipt of a petition for  
32    withdrawal of land from an agricultural area, the county  
33    board shall refer the petition to the county committee, which  
34    shall, within 30 days of its receipt of the petition, report

1 to the county board its recommendations.

2 3. Within 5 days after the receipt of a petition for  
3 withdrawal of land from an agricultural area, the county  
4 board shall refer the petition to the regional and county  
5 planning commissions, if any, which shall, within 30 days of  
6 their receipt of the petition, report to the county board  
7 their recommendations concerning the potential effect of the  
8 withdrawal of land from an agricultural area upon the  
9 development patterns and needs of the county and upon the  
10 county's planning objectives.

11 (Source: P.A. 81-1173.)

12 (505 ILCS 5/16) (from Ch. 5, par. 1016)

13 Sec. 16. Review of agricultural areas by county board.  
14 The county board shall review any agricultural area created  
15 under this Act every 10 years after the date of its creation  
16 ~~and--every-8-years-thereafter~~. In conducting the such review,  
17 the county board shall:

18 (1) Grant a preference to the recommendations of  
19 the landowners in the agricultural area.

20 (2) Ask for the recommendations of the county  
21 committee, and shall,

22 (3) At least 120 days before the 10-year period prior to  
23 such date, require the Agricultural Areas Committee to  
24 hold a public hearing at a place within the area or other  
25 readily accessible place. The Committee must give (i)  
26 upon notice being given in a newspaper having general  
27 circulation within the area or if there is no such  
28 newspaper, then in a newspaper having general circulation  
29 within the county, and (ii) individual notice in writing  
30 to the persons owning land within the area, to the  
31 persons owning land adjacent to the area, and to the  
32 county or regional planning commission.

33 Included in the notice to the landowners owning land in

1 the agricultural area shall be a statement that, by  
 2 submitting a letter to the agricultural areas committee at or  
 3 prior to the public hearing, any landowner of land within the  
 4 agricultural area may request that his or her land be removed  
 5 from the agricultural area to be reviewed. The letter must  
 6 contain:

7 (1) a request to remove land from the agricultural  
 8 area;

9 (2) an affidavit that the author is the landowner  
 10 of the land proposed for removal from the agricultural  
 11 area; and

12 (3) a legal description, map, and acres proposed  
 13 for removal from the agricultural area.

14 The land described in the letter shall no longer be included  
 15 in the agricultural area.

16 ~~The---county---board~~ After receiving the landowners'  
 17 recommendations and the reports of the county committee and  
 18 after the public hearing, the county board may (i) terminate  
 19 the area at the end of a 10-year period ~~such--10--or--8--year~~  
 20 ~~periods~~ by filing a notice of termination with the county  
 21 clerk, (ii) decide not to take any action, or (iii) the  
 22 ~~county--board--may~~ modify the area in the same manner as is  
 23 provided in Section 6 of this Act. If the county board does  
 24 not act, the area shall continue as originally constituted.  
 25 The county board shall notify the Department of Agriculture  
 26 of any alterations to an agricultural area or the termination  
 27 of an agricultural area within 45 days of taking the ~~such~~  
 28 action.

29 (Source: P.A. 84-456.)

30 (505 ILCS 5/17) (from Ch. 5, par. 1017)

31 Sec. 17. Petition for dissolution. Ten years after the  
 32 date of creation of any agricultural area and every 10 years  
 33 thereafter, owners of land within the ~~such~~ area may petition

1 the county board to dissolve the area. The Sueh petition must  
2 be submitted in writing to the county board during the year  
3 120-day-period immediately prior to the 10th anniversary of  
4 the creation of the area. If Should the petition contains  
5 contain signatures of-at-least-two-thirds of the landowners,  
6 their--heirs,--assigns--or--representatives, owning at least  
7 two-thirds of the land within the area, the area shall be  
8 dissolved. The county board shall notify the Department of  
9 Agriculture of the dissolution of any agricultural area  
10 within 45 days of taking the sueh action.

11 (Source: P.A. 84-456.)

12 (505 ILCS 5/18) (from Ch. 5, par. 1018)

13 Sec. 18. Limitation on local regulations and on suits.  
14 No local government shall exercise any of its powers to enact  
15 local laws or ordinances within an agricultural area in a  
16 manner that which would unreasonably restrict or regulate  
17 farm structures or farming practices, including the  
18 acquisition of land by annexation or eminent domain, in  
19 contravention of the purposes of this Act.

20 The owners of land within the agricultural area may not  
21 be subjected to a civil action for nuisance by a private  
22 party. The Department of Agriculture shall give technical  
23 assistance and provide other resources for owners of land  
24 within an agricultural area if subjected to any other private  
25 civil action. Nothing in this Act shall be construed as a  
26 limitation or preemption of any statutory or regulatory  
27 authority arising under subsection (a) of Section 9 of the  
28 Environmental Protection Act.

29 The unless--sueh restrictions or regulations may be  
30 adopted and the nuisance suits may be allowed if bearing bear  
31 a direct relationship to the public health or safety.

32 (Source: P.A. 81-1173.)

1 (505 ILCS 5/20.2) (from Ch. 5, par. 1020.2)

2 Sec. 20.2. Adding land to designated agricultural areas.

3 Any petition ~~proposal~~ for adding land to a designated

4 agricultural area shall be submitted to the county board

5 which shall forward the proposal to the county committee

6 within 10 days. Within 45 days from the date the petition

7 ~~proposal~~ was submitted to it, the county committee shall

8 review the proposed addition and shall recommend the

9 approval, disapproval or modification of the petition

10 ~~proposal~~. The county committee shall submit a report of its

11 recommendations to the county board which shall act on the

12 recommendations within 30 days. The county board shall

13 notify the Department of Agriculture of any addition of land

14 to a designated agricultural area within 45 days of taking

15 such action. Any land added to a designated agricultural area

16 under this Section shall be subject to review under Section

17 16 at the same times as the original area is subject to such

18 review. The dates for such review and the period during

19 which a petition may be filed under Section 17 shall not be

20 affected by the addition of land under this Section.

21 (Source: P.A. 84-456.)

22 (505 ILCS 5/20.4 new)

23 Sec. 20.4. Eminent domain. Except as otherwise provided

24 in this Section, no entity possessing the power of eminent

25 domain under the laws of this State may acquire any land or

26 easements having a gross area greater than 10 acres in size

27 that is located within an agricultural area. Except as

28 otherwise provided in this Section, no governmental unit may

29 advance public funds, whether by grant, loan, interest,

30 subsidy, or otherwise, within an agricultural area for the

31 construction of nonfarm housing or commercial or industrial

32 facilities to serve nonagricultural uses of land.

33 At least 60 days before an acquisition or advance, a

1 notice of intent must be filed with the Director of  
2 Agriculture containing any information and in the manner and  
3 form required by the Director. The notice of intent must  
4 contain a report explaining the proposed action, including an  
5 evaluation of alternatives that would not require acquisition  
6 or advance within the agricultural area.

7 The Director of Agriculture, in consultation with  
8 affected units of local government, must review the proposed  
9 action to determine its effect on the preservation and  
10 enhancement of agriculture and agricultural resources within  
11 the agricultural area and the relationship of the action to  
12 local and regional comprehensive plans.

13 If the Director of Agriculture finds that the proposed  
14 action might have an unreasonable effect on an agricultural  
15 area, he or she must issue an order, within the 60-day  
16 period, for the party to desist from the action for another  
17 60-day period.

18 During the additional 60-day period, the Director must  
19 hold a public hearing concerning the proposed action at a  
20 place within the affected agricultural area or otherwise  
21 easily accessible to the agricultural area. The Director  
22 must provide notice of the hearing not more than 30 but not  
23 less than 15 days before the hearing:

24 (1) in a newspaper of general circulation within  
25 the agricultural area;

26 (2) in writing, delivered by mail, to the entity  
27 proposing to take the action;

28 (3) in writing, delivered by mail, to the units of  
29 local government whose territory encompasses the  
30 agricultural area; and

31 (4) in writing, delivered by mail, to any  
32 governmental unit having the power of review or approval  
33 of the action.

34 The review process required by this Section may be conducted

1 jointly with any other environmental impact review required  
2 by law.

3 The Director of Agriculture may suspend for up to one  
4 year any eminent domain action that he or she determines to  
5 be contrary to the purposes of this Act and for which he or  
6 she determines there are feasible and prudent alternatives  
7 that have less negative impact on agricultural areas.

8 The Director of Agriculture may request the Attorney  
9 General to bring a civil action to enjoin any entity from  
10 violating the provisions of this Section.

11 This Section does not apply to (i) any utility  
12 facilities, including, but not limited to, electric  
13 transmission or distribution facilities or lines, facilities  
14 used for exploration, production, storage, transmission, or  
15 distribution of natural gas, synthetic gas, or oil, or  
16 telephone lines and telecommunications facilities or (ii) any  
17 emergency project that is immediately necessary for the  
18 protection of life and property.

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	505 ILCS 5/4	from Ch. 5, par. 1004
4	505 ILCS 5/5	from Ch. 5, par. 1005
5	505 ILCS 5/6	from Ch. 5, par. 1006
6	505 ILCS 5/7	from Ch. 5, par. 1007
7	505 ILCS 5/8	from Ch. 5, par. 1008
8	505 ILCS 5/9	from Ch. 5, par. 1009
9	505 ILCS 5/10	from Ch. 5, par. 1010
10	505 ILCS 5/11	from Ch. 5, par. 1011
11	505 ILCS 5/11.5 new	
12	505 ILCS 5/12	from Ch. 5, par. 1012
13	505 ILCS 5/13	from Ch. 5, par. 1013
14	505 ILCS 5/16	from Ch. 5, par. 1016
15	505 ILCS 5/17	from Ch. 5, par. 1017
16	505 ILCS 5/18	from Ch. 5, par. 1018
17	505 ILCS 5/20.2	from Ch. 5, par. 1020.2